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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/566,167 | 01/27/2006 | Michael Charles Kallen | KAL0108 US | 2517 |

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| EXAMINER |
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ANDRISH, SEAN D

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08/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/566,167 | Applicant(s) KALLEN, MICHAEL CHARLES | |
| | Examiner SEAN D. ANDRISH | Art Unit 3672 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 18 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 10 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 - 18 is/are allowed.
- 6) ☒ Claim(s) 1, 5 - 9, and 12 - 14 is/are rejected.
- 7) ☒ Claim(s) 3, 4, and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 4 – 8, and 11 are objected to because of the following informalities:

The use of the term “like” as recited in claims 1, 8, and 11 is indefinite. It is unclear as to whether applicant means that “like” components are identical or the components are of complimentary shape relative to each other. For example, examiner interprets the first coupling means for fully coupling said form with a like second coupling means as recited in claims 1 and 8 to mean that the first coupling means has a shape that is complimentary to the second coupling means (such as a hook and a slot) to provide a secure coupling between one form and another form. The second like form as recited in claim 1 has been interpreted as meaning the second form is identical to the first form. Applicant should amend the claim language to clarify the meaning of the term "like" as recited in the claims.

The meaning of the phrase “fully coupling” is unclear. Examiner interprets the phrase "fully coupling" as recited in claims 1 and 8 as meaning a secure coupling has been established between elements.

The term “said” or the equivalent should be inserted before "bosses" on line 3 of claim 6.

Claims 4 - 7 are objected to as being dependent upon withdrawn claim 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimada (5,531,547).

Regarding claims 1 and 7, Shimada discloses a composite form comprising: a floor section (2b) including a plurality of horizontally spaced anchoring members (22) located proximate to the rearward end of said floor section (2b) and a plurality of elongated drainage slots (spaces between vertical and horizontal reinforcement rods 2c, 2d in floor section) extending through the floor section; a face section (2a) formed integrally with and extending longitudinally at an angle upwardly from the forward end of said floor section (2b), the face section comprising a plurality of supporting ribs (2c) and a second plurality of supporting ribs (2d), the intersection of said first plurality of ribs and said second plurality of ribs defining a plurality of regions bounded by said ribs; first coupling means (8) and a second coupling means (rods 2a, rod 3, and space 8a in which rod 3 is located) integral with the form (R) (Fig. 3(a)); said first coupling means on one form fully coupling with said second coupling means on an adjacent form located above said one form and second coupling means on said one form fully coupling with said first coupling means on an adjacent form located below said one form (Figs. 1 and 3(a); column 3, lines 33 – 46 and lines 56 - 61; column 4, lines 22 – 28). Examiner interprets the phrase "fully coupling" as meaning a secure coupling has been established between elements.

Regarding claim 6, Shimada further discloses each anchoring member (22) comprises a boss (22a), each boss including a hole extending through the boss, the said holes in all bosses being axially aligned (Fig. 4(e)).

Claim Rejections - 35 USC § 103

4. Claims 5, 8, 9, and 12 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada in view of Vidal et al. (5,156,496).

Regarding claims 5 and 12, Shimada discloses all of the limitations of the above claim(s) except for a plurality of hydroseeding screens formed integrally with said form, each one of said screens being formed within a unique one of said regions bounded by said supporting ribs. Vidal et al. teaches a plurality of hydroseeding screens (geotextile filter cloth 12), each hydroseeding screen (12) formed within a unique one of said regions bounded by said supporting ribs (14, 18) (Fig. 1; column 3, lines 18 - 22; column 4, lines 27 - 40) to prevent fine soil particles from escaping from the facing of the structure.

Regarding claims 8 and 9, Shimada further discloses an end portion of floor section (2b) being wrapped back and forth around the anchor rods (17, unlabeled rod under anchor rod 14) so as to tighten thereon when the anchor rod (14) is pulled in longitudinal tension away from said floor section (2b) (Fig. 5d; column 5, lines 9 - 13), but fails to disclose a geogrid anchored to the floor section. Vidal et al. teaches a geogrid (filter 12 that is integral with mesh cover 6) anchored to a floor section (16, 17) via bolt 20 (Fig. 3) to prevent fine soil particles from escaping from the face of the earthen structure.

Regarding claims 13 and 14, Shimada in view of Vidal et al. discloses all of the limitations of the above claim(s) except for the size of the mesh screen openings. It has been established that the optimization of proportions in a prior art device is a design consideration within the skill of the art. *In re Reese*, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the apparatus as disclosed by Shimada with the hydroseeding screens as taught by Vidal et al. to prevent fine soil particles from escaping from the face of the earth structure. Examiner notes that each mesh cover (6) and its associated hydroseeding screen (12) defines a unique region defined by supporting ribs (14, 18), said region being bounded by support strap, the mesh cover being of sufficient length to span across several straps. The claim limitation(s) do not recite that a region is bounded by immediately adjacent ribs.

Allowable Subject Matter

5. Claims 3, 4, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. A earth-stabilizing structure comprising a face section containing a flange with t-shaped slots in combination with a floor section containing t-shaped hooking members extending from the front of the floor section is not taught in the prior art.
6. Claims 15 – 18 are allowed.

Response to Arguments

7. Applicant's arguments filed 15 May 2008 with respect to claim 1 have been fully considered but they are not persuasive. Applicant argues that Shimada's form cannot be coupled to any like form either above or below the given form except with an added element such as connecting rod 3 and, therefore, Shimada fails to teach or suggest one form is fully coupled to a second form located above or below said first form. The connecting rod (3) of Shimada is used to securely connect one form to another form located above or below said first form. The term

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“fully” as recited in the claims is not equivalent to “without any added element” as asserted by applicant. Therefore, the claim limitation(s) do not preclude the use of added elements to fully couple one form to a second form located above or below said first form.

8. Applicant's arguments with respect to claims 5, 8 and claims dependent thereon, and 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN D. ANDRISH whose telephone number is (571)270-3098. The examiner can normally be reached on Mon - Fri, 7:30am - 5:00pm, Alternate Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

Sunil Singh
Primary Examiner
Art Unit 3672

SDA
8/4/2008